IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.1261 OF 1999

In the matter of Winding up of LEAR FASTNERS LTD.

Venus Wire Industries Ltd. .. Petitioners

Mr.H.V.Chande for petitioner

None for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 25th January 2007.

P.C.

. Considering the orders passed by this Court and more particularly that of this Court

(Vazifdar, J) dated 12th January 2006, it is clear that the petitioner has complied with the requirements of service of notice of admission of the company petition. Hence, this Court can proceed with the final hearing of this petition.

2. Mr.Chande appearing for petitioner has invited my attention to the averments in the company petition. He submits that the orders were placed upon the petitioners by the respondents pursuant to which goods were sold and delivered by the petitioners to the respondent between August 1998 to October 1998. Goods were worth Rs.3,01,054/-. Petitioners raised their invoices which were accepted. It appears that the company returned goods worth Rs.27,795/- and Rs.22,337/-. These amounts were duly given credit by the petitioners and thereafter a demand was raised for Rs.2,50,922/-. The Company submitted their debit note for which in turn petitioners submitted a credit note. However,

after due accounting the balance sum as claimed was not paid. Demands were made and ultimately Statutory Notice was addressed which was duly received at the Registered office of respondents but, respondent failed to reply to the same nor complied with the requisitions contained therein.

3. Ultimately this petition was filed. Prior to its admission, this Court granted several opportunities to the company to file reply. These opportunities were not availed of and, therefore, this Court admitted the company petition on the basis that the averments in the petition remained uncontroverted and a prima facie case is made out for winding up.

4. Respondent company is represented by Mr.Satpute and Company, Advocates. They have not appeared despite the matter being on board and their name displayed on the same. There is no affidavit in reply. This is a fit case where

after giving due credit for the goods returned, the petitioner modified its demand and the revised demand has also not been satisfied. There being no rebuttal of presumption, this Court can exercise its discretion conferred vide sections 433 and 434 of the Companies Act.

5. Considering the provisions of sections 433 and 434 of the Companies Act so also the discretion conferred upon this Court thereunder, in my view, the petitioner's submission deserve to be accepted. Despite liberty being given to the respondent company to meet the allegations in the company petition and to substantiate the pleas raised in reply to the statutory notice, it has not come forward and contested the matter. There is no defence to the claim. All averments including the one pertaining to the financial position of respondent company have not been denied or controverted. In such circumstances, petition deserves to be allowed. It is

accordingly made absolute.

6. It is directed that the respondent company be wound up in accordance with the provisions of Companies Act, 1956. It would be open for the O.L. to proceed and take charge of the assets of respondent company and thereafter take such steps as are permissible in law. Liquidator and all other concerned to act on an authenticated copy of this order.

(S.C.Dharmadhikari, J)